

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:03

PLR-140130-14

Date:

April 21, 2015

X =
P1 =
P2 =

State =
D1 =
D2 =
m =
n =

Dear :

This letter responds to a letter dated October 24, 2014, and subsequent correspondence, submitted on behalf of P2, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 754 of the Internal Revenue Code (Code).

The information submitted states that on D1, X acquired a m% interest in P1, a State limited liability company classified as a partnership for federal tax purposes. P1 owns a n% interest in P2, a State limited liability company classified as a partnership for federal tax purposes. P1 made an election under § 754 with its partnership return for the taxable year ended D2. However, P2 inadvertently failed to file an election under § 754 for its taxable year ended D2.

Section 754 provides, in part, that if a partnership files an election, in accordance with the regulations prescribed by the Secretary, the basis of the partnership property is adjusted, in the case of a transfer of a partnership interest, in the manner provided in § 743. Such an election shall apply with respect to all distributions of property by the

partnership and to all transfers of interests in the partnership during the taxable year with respect to which the election was filed and all subsequent taxable years.

The optional adjustment to basis under § 754 will be available to both an upper-tier partnership (UTP) and a lower-tier partnership (LTP) when there is a sale or exchange of a partnership interest or the death of a partner in UTP, and both UTP and LTP have made an election under § 754 to adjust the basis of partnership property on a sale or exchange of a partnership interest or on the death of a partner. Rev. Rul. 87-115, 1987-2 C.B. 163.

Section 1.754-1(b)(1) of the Income Tax Regulations provides, in part, that an election under § 754 to adjust the basis of partnership property under 743(b) with respect to a transfer of an interest in a partnership, shall be made in a written statement filed with the partnership return for the taxable year during which the transfer occurs. For the election to be valid, the return must be filed not later than the time prescribed by § 1.6031-1(e) (including extensions thereof) for filing the return for the taxable year.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of relief will not prejudice the interests of the Government.

Based solely on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, P2 is granted an extension of time of 120 days from the date of this letter to make an election under § 754 effective for its taxable year ended D2 and thereafter. The election should be made in a written statement filed with the appropriate service center for association with P2's return for its taxable year ended D2. A copy of this letter should be attached to the election.

Except as specifically set forth above, we express or imply no opinion concerning

the federal tax consequences of the facts described above under any other provision of the Code and the regulations thereunder.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to X's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By:

Mary Beth Carchia
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter
Copy for § 6110 purposes

cc: